**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION.**

**WRIT PETITION NO. 8915 OF 2004**

Ex-NK Zambre Tanaji Ramrao ...Petitioner ‘
versus
The Union of India and ors. ..... Respondent.

...

Mr. M.I. Balasubramanian for the petitioner.

Mr. Sureshkumar for respdt.

**CORAM; V.G. PALSHIKAR &**
**D.B. BHOSALE, JJ.**

**DTAED; 6TH SEPT., 2005.**

**P.C.**

1. By this petition, the petitioner claimed direction to the respondent to grant the petitoner the pensionary benefits and other consequential reliefs. Notice why the petition should not be admitted was issued and a detailed reply has been filed on behalf of the respondent. In the reply it is categorically stated as under:

> In the instant case disability pension of the individual was assessed neither attributable to nor aggravted by militart service i.e. not connected with service as explained above, thereforehe is not entitled for disability

pension. However, disability poension claim of the petitioner was submitted to PCDA(P) Allahabad vide this office letter No. Pem/D-2284/01/R dated 24 August 1998.

PCDA(P) Allahabad vide their letter No.G3/56/177/9/99 dated 14 Dec. 1999 has rejected the disability pension claim of the petitioner stating that the invidivual has been discharged as his own request on compassionate grounds before fulfilling the conditions of his terms of engagement/before completion of terms of service under Army Rule 1954, Rule 13(3), Item III(IV). As such the disability pension claim is untenable. Hereto annexed and marked as Exhibit "R-8" is the copy of letterdated 14 December 1999 and "R-9" is the copy of Rule 13(3)III(IV) of Army Rules 1954.

2. From the above, it is clear that the petitioner has been discharged at his request on compassionate grounds before fulfilling the terms of engagement. Apart from that the minimum service required for pension even of disbility time is 15 years and admittedly the petitioner has served the Arnmy for 13 years and 9 months. Apart from this the petitioner

has also acquired service in the military agency service the quota reserved for retired army persons. There is thus no illegality commtited by the respondent in denying the disability pension to the petitioner. Hence this petition is dismissed.

*****